

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08-CR-00223-RJC

USA

v.

EDUARDO VAZQUEZ

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ORDER

THIS MATTER is before the Court upon motion of the defendant for compassionate release based on his medical condition under the First Step Act of 2018, signed on April 19, 2019. (Doc. No. 35).

Section 603(b) of the Act amended 18 U.S.C. § 3582(c)(1)(A), which previously allowed a court to reduce a term of imprisonment only on motion of the Director of the Bureau of Prisons. Now a court may entertain a motion filed by a defendant: (1) after full exhaustion of all administrative rights to appeal a failure of the BOP to bring a motion his behalf; or (2) after the lapse of 30 days from the receipt of such a request by the warden of his facility, whichever is earlier.

Here, materials attached to the motion show that the warden denied the defendant's request for compassionate release on March 28, 2019, and advised him how to appeal that decision through the Administrative Remedy Program. (Doc. No. 35 at 14). The defendant then submitted a regional administrative remedy appeal on April 15, 2019, (Id. at 16), but the motion fails to show completion the appeal process. See 28 C.F.R. §571.63(a) (designating Administrative Remedy Procedure for appeal of warden's decision); and 28 C.F.R. §542.15(a) (defining stages of appeal

to finality). Therefore, the Court is without authority to consider the merits of his claim.

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 35), is **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: May 22, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

